

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TONY FLOWERS,

Petitioner,

v.

ANTHONY LaMARQUE, Warden,

Respondent.

CV F 01-5821 AWI DLB HC

ORDER GRANTING PETITIONER'S
REQUEST FOR EXTENSION OF TIME TO
FILE NOTICE OF APPEAL AND REQUEST
FOR CERTIFICATE OF APPEALABILITY

[Doc. 50]

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On July 15, 2005, the Magistrate Judge assigned to this action issued Findings and Recommendations recommending that the petition for writ of habeas corpus be denied. On December 22, 2005, the undersigned adopted the Findings and Recommendations in full and judgment was entered in favor of Respondent.

On January 18, 2006, Petitioner filed a request for an extension of time to file a notice of appeal.

Pursuant to Rule 4 of the Federal Rules of Appellate Procedure, a party must file a Notice of Appeal within thirty (30) days after the judgment or order appealed from is entered.

Fed.R.App.P. 4(a). The district court may extend the time for filing a notice of appeal if:

- (i) a party so moves no later than 30 days after the time prescribed by this Rule 4(a) expires; *and*
- (ii) regardless of whether its motion is filed before or during the 30 days after the time prescribed by this Rule 4(a) expires, that party shows excusable neglect or good

1 cause.

2 Fed. R. App. Pro. 4(a)(5)(i), (ii).

3 Petitioner filed his motion to extend time on January 18, 2006, which is within 30 days
4 from the date judgment was entered. In his motion to extend time, Petitioner shows good cause
5 for the extension, citing lack of access to the library due to prison lockdowns over which he has
6 no control. Accordingly, Petitioner is granted thirty (30) days within which to file his notice of
7 appeal and request for certificate of appealability.

8
9 IT IS SO ORDERED.

10 **Dated: February 14, 2006**
11 0m8i78

/s/ Anthony W. Ishii
UNITED STATES DISTRICT JUDGE